

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SAMUEL PARK,

Petitioner,

Civil No. 05-1895-AA

v.

ORDER

JEAN HILL,

Respondent.

AIKEN, District Judge.

Petitioner filed a petition under 28 U.S.C. § 2254 challenging his convictions for Sodomy in the First Degree and three counts of Sexual Abuse in the First Degree.

Respondent moves to dismiss without prejudice on the ground that petitioner's successive post-conviction appeal is still pending. See. 28 U.S.C. § 2254(b)(1)(A); Coleman v. Thompson, 501 U.S. 722 (1993); James v. Borg, 24 F.3d 20 (9th Cir. 1994).

Petitioner acknowledges that his successive post-

conviction appeal related to the convictions challenged in this proceeding are still pending, but requests that the court stay this proceeding in order to avoid a statute of limitations problem.

Petitioner is advised that the one year statute of limitations is tolled during the time a properly filed collateral proceeding is pending.

Petitioner's Petition (#2) is denied without prejudice. This proceeding is dismissed.

DATED this 7 day of June, 2006.

/s/ Ann Aiken

Ann Aiken

United States District Judge